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Examiner Holly Schnizer  
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on February 4, 2004

Date of Deposit Via Facsimile

Heidi A. Dare, Reg. No. 50,775

Name of applicant, assignee or  
Registered Representative

*Heidi A. Dare*

Signature

February 4, 2004

Date of Signature

Our Case No. 10402/15  
U-3253

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Christof Westenfelder

Serial No. 10/003,352

Filing Date: November 1, 2001

For METHOD OF USE OF  
ERYTHROPOIETIN TO TREAT  
ISCHEMIC ACUTE RENAL  
FAILURE

Examiner Holly Schnizer

Group Art Unit No. 1653

AMENDMENT

Via Facsimile No. 703/308-4242  
Commissioner for Patents  
Alexandria, VA 22313-1450

Dear Sir:

In response to the Office Action Dated December 12, 2003, Applicant requests entry of the following amendment and remarks:

Amendments to the Claims are reflected in the listing of the claims which begins on page 3 of this paper.

Application Serial No. 10/003,352  
Response filed February 4, 2004


administering a composition comprising EPO prior to the individual developing ischemic acute renal failure as claimed in newly amended claims 1 and 2.

Thus, the Applicant asserts that the claimed invention is not anticipated by Nemoto et al. The Applicant respectfully requests the rejection of claims 2 and 5-7 under 35 USC §102(a) be withdrawn.

### SUMMARY

Pending Claims 1-2 and 5-11 as amended are patentable. New claims 12-23 are also patentable. Applicant respectfully requests the Examiner grant early allowance of this application. The Examiner is invited to contact the undersigned attorneys for the Applicant via telephone if such communication would expedite this application.

Respectfully submitted,



Heidi A. Dare  
Registration No. 50,775  
Attorney for Applicant

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Feb. 4. 2004 1:40PM

BH&amp;L CHICAGO

No. 4856 P. 2/17

| TRANSMITTAL LETTER  |                                 |                           | Case No. 10402/15<br>Client Ref. No. U-3253 |
|---|---------------------------------|---------------------------|---|
| Serial No.<br>10/003.352  | Filing Date<br>November 1, 2001 | Examiner<br>Holy Schnizer | Group Art Unit<br>1653                      |
| Inventor(s)<br>Christof Westenfelder  |                                 |                           |   |
| Title of Invention<br>METHOD OF USE OF ERYTHROPOIETIN TO TREAT ISCHEMIC ACUTE RENAL FAILURE |                                 |                           |   |

## TO THE COMMISSIONER FOR PATENTS

Transmitted herewith are Transmittal Letter (in duplicate); and Amendment.

- ☒ Small entity status of this application under 37 CFR § 1.27 has been established by verified statement previously submitted.
- ☐ Applicant claims small entity status. See 37 CFR 1.27.
- ☐ Petition for a \_\_\_\_\_ month extension of time.
- ☒ No additional fee is required.
- ☐ The fee has been calculated as shown below:

| Claims Remaining After Amendment          | Highest No. Previously Paid For | Present Extra |
|---|---------------------------------|---------------|
| Total                                     | Minus                           |               |
| Indep.                                    | Minus                           |               |
| First Presentation of Multiple Dep. Claim |                                 |               |

| Small Entity    |           |
|-----------------|-----------|
| Rate            | Add'l Fee |
| x \$9=          |           |
| x \$2=          |           |
| + \$140=        |           |
| Total add'l fee | \$        |

| Other Than Small Entity |           |
|-------------------------|-----------|
| Rate                    | Add'l Fee |
| x \$18=                 |           |
| x \$84=                 |           |
| + \$280=                |           |
| Total add'l fee         | \$        |

- ☐ Please charge Deposit Account No. 23-1925 (BRINKS HOFER GILSON & LIONE) in the amount of \$\_\_\_\_\_. A duplicate copy of this sheet is enclosed.
- ☐ A check in the amount of \$\_\_\_\_\_ to cover the filing fee is enclosed.
- ☒ The Commissioner is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this communication or credit any overpayment to Deposit Account No. 23-1925. A duplicate copy of this sheet is enclosed.
- ☒ I hereby petition under 37 CFR § 1.136(a) for any extension of time required to ensure that this paper is timely filed. Please charge any associated fees which have not otherwise been paid to Deposit Account No. 23-1925. A duplicate copy of this sheet is enclosed.

Respectfully submitted.

*Heidi A. Dare*  
 Heidi A. Dare  
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I hereby certify that this correspondence is being deposited via telexmail no. 703/308-4242 to:  
 Examiner Holy Schnizer, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on February 4, 2004.

Date: February 4, 2004

Signature: *Heidi A. Dare*